

Amendment G, Responsive to 25 May 2005 action

Appl. no. 09/670,704
Atty. ref. IG012a0fUS

REMARKS

Claims 1-3, 5-6, 14-17, 19, and 25-27 were rejected in the 5/25 Action over U.S. Patent No. 6,002,521, hereinafter the '521 patent, either alone or in combination with other references.

Applicant maintains his assertion that the teaching of the '521 patent has been misunderstood or mischaracterized. Because this fundamental disagreement about the teaching of that patent appears to have hindered advancement of prosecution, Applicant has chosen to pursue a somewhat different path which, hopefully, will do so.

Herewith, Applicant has canceled each of the previously pending claims and submitted new method claims 32-40. These claims are directed to a method very similar to that which was claimed originally, but are presented in a way that Applicant believes will assist in making more apparent the patentably distinct nature of the method. Support for these new claims can be found in the claims as filed as well as various portions of the specification and drawings as filed. If, for some reason, the Examiner believes that an element or limitation of one of the newly presented claims is not fully supported in the application as filed, Applicant requests that the courtesy of a phone interview to discuss the same.

Applicant's re-review of the '521 patent indicates that it teaches two broad embodiments. Without wishing to being accused of oversimplify the teaching of the '521 patent, the two broad embodiments are as follows (with nicknames added for ease of reference):

1. One depicted in various forms in Figs. 2-5 and 10, where a single light dispersive film is sandwiched between two spacers ("Sandwich Construction"), and
2. One depicted in Fig. 11, where light dispersive films are attached to the glass panes and contact a single spacer on opposite sides ("Laminate Construction").

Turning now to the pending claims, the method of claim 32 requires that the produced insulating glazing (IG) unit include just a single spacer frame. The Sandwich Construction from the '521 patent requires at least two spacers, and removal of one of these would render this construction inoperable. Therefore, the teaching of the '521 patent that relates to the Sandwich Construction cannot be said to anticipate the method of claim 32.

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Additionally, the method of claim 32 requires that "at least a portion of said primary sealant material contacts each of said first and second glass sheets . . ." The Laminate Construction requires that the sealant material(s) contact the light dispersive film, and removal of this film from the Laminate Construction would obviate the stated purpose to be achieved by the '521 patent, the teaching of the '521 patent that relates to the Laminate Construction cannot be said to anticipate the method of claim 32.

Once the '521 patent is removed as an anticipatory and/or primary reference, one can see that its teaching with respect to the sealant materials themselves actually teaches away from that which is set forth in claim 32.

Specifically, in the '521 patent, the cured structural sealant (element 26) is positioned inwardly of the secondary sealant (element 28) that hermetically seals the IG unit. In particular, see the descriptions at lines 1-4 of col. 9 ("Second sealant 28 is used to seal the unit from moisture . . ."), lines 48-55 of col. 10 (application of second sealant 28 results in a hermetically sealed unit), and lines 44-46 of col. 10 ("The first sealant [26] strongly adheres together the glazing lites, the outwardly exposed portions of the spacers, and the edges of the film," i.e., it is a structural sealant). Thus, the '521 patent teaches that the structural sealant is applied first and then encased in or covered with a moisture impermeable sealant.

In contrast, claim 32 requires initial application of a primary (moisture impermeable) sealant and, subsequently, application of a secondary (structural) sealant thereover. With respect to the primary sealant, this arrangement prevents damage during shipping and handling of the IG unit, prevents it from sticking (especially in hot weather) to the skin of those who handle it and from support surfaces, and protects it against creeping and loosening due to "pumping" of the IG unit that occurs due to, e.g., temperature and pressure changes.

Because all rejections under 35 U.S.C. § 103(a) employed the '521 patent as the primary reference and because the presently pending claims have been shown to be neither taught nor suggested by that reference, Applicant submits that all outstanding obviousness rejections have been mooted. Accordingly, at this time, Applicant elects not to comment on the other references of record.

Because the claim amendments undertaken as part of this submission result in 9 pending claims (only 1 of which are independent) and because this response is being submitted

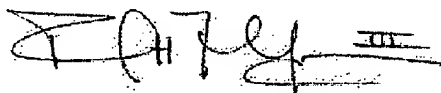
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within the 3-month shortened statutory period, no additional fees are due for its consideration.

Inquiries concerning this submission should be directed to the attention of the undersigned.

Respectfully submitted,



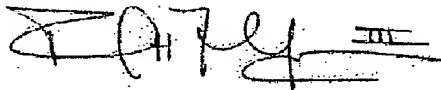
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I hereby certify that this correspondence (Amendment G) is being transmitted by facsimile to (571) 273-8300 on August 25, 2005.



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